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1 improvement in that category?

2 A He stated if the store -- we  
3 work as a team. If the store numbers are  
4 down it applies to everyone.

5 Q Okay. And he says on  
6 supervisor's summary, is that  
7 Mr. Finnegan's handwriting?

8 A To my understanding it is.

9 Q It says, "Diane needs to show  
10 more initiative in goal setting on a  
11 daily and monthly basis. Also needs to  
12 work on planning in collections and  
13 marketing." What did that mean planning  
14 in collections and marketing?

15 A That means to do his job. It  
16 was not my job to plan. It was not my  
17 job to set up a marketing plan. When I  
18 became the manager that was my job.

19 Q Did you tell him that's not my  
20 job?

21 A No, I didn't tell him. I  
22 always tried -- I always take the  
23 initiative to my understanding to

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1 do -- play as a team and do whatever I  
2 need to do.

3 Q It says be more proactive  
4 towards those areas. Finally needs to  
5 work on delegation and supervisor of  
6 others when given the opportunity. Do  
7 you know what he's referring to there?

8 A The only thing I could think  
9 of is that, like I say, he was the  
10 training manager at the time. He had  
11 different people coming in, manager  
12 candidates coming in and going through  
13 the two-week manager training. That's  
14 the only person that I would have had  
15 supervised at that point.

16 Q What about the CSR?

17 A No. It was just myself and  
18 Edward Finnegan.

19 Q He says in closing, "Diane  
20 needs to fine tune this area of  
21 delegation planning organization." Did  
22 he discuss that with you?

23 A Bottom line, like I said,

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1 what he was pretty much discussing was  
2 that the manager trainees coming through  
3 the two-week program, training program,  
4 he stated to me if I see where they need  
5 to be trained in a certain area, if I see  
6 where -- let me see. That's the only  
7 thing I can think of is that I needed to  
8 assert myself with the trainees that's  
9 coming through.

10 Q This discussion was with  
11 Mr. Finnegan, not Mr. Knowles, correct?

12 A Correct.

13 Q And then it says, B, "Explain  
14 what steps you plan to take toward  
15 improving employee's performance." He  
16 says, "I plan to show Diane how to be more  
17 proactive and set goals on a daily basis  
18 and monthly evaluate the present  
19 situation and make decisions from that  
20 evaluation." Did you have such meetings  
21 with Finnegan later?

22 A We would have meetings.

23 Q Where that would be discussed?

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1 A Within the branch, yes.

2 Q And then he indicates

3 promotable with additional training and

4 experience. Now, this was signed on

5 August the 12, 2002. That was before you

6 went up for manager?

7 A Right.

8 Q It was before the time Mercer

9 was promoted to management?

10 A She was manager at this time.

11 Q At this time? Okay.

12 A Right.

13 Q Could you read your comments

14 on this?

15 A "My concerns are with the  
16 initiative and delegation issues. Every  
17 day that I am here I take the initiative  
18 to make decisions on running the branch  
19 while the manager, now divisional  
20 training manager, is not in. For  
21 example, customer appreciation day. I  
22 worked really hard and have trained  
23 several people, people working in the

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1 made reference to the one incident being  
2 the overall evaluation of my full  
3 performance. I did not make reference as  
4 you can read to what I plan on doing but  
5 I did -- but I did make reference to I am  
6 a team player and I do give a hundred  
7 percent so nothing would have changed.

8 Q Right. You did not --

9 A Not here in writing I didn't  
10 but I mean whatever it took I was willing  
11 to -- which I've told Edward Finnegan on  
12 several different occasions willing to  
13 learn.

14 (Defendant's Exhibit

15 No. 6 was marked  
16 for identification.)

17 Q Okay. I'm going to hand you  
18 what I'm going to mark as the next  
19 exhibit. This is really hard to read. I  
20 understand. I was trying to get some  
21 dates down here. If you look real hard  
22 at the top it says status change. It's  
23 got an X marked by it and it appears that

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1       the effective date of this status is  
2       going to be November 25, 2002. And I'm  
3       assuming that is the time that you were  
4       promoted from -- I'm sorry. It says  
5       transfer in here from location 1624 to  
6       1653. Do you see that? Current location  
7       and new location right in here?

8           A       No, I don't.

9           Q       You've got to look really  
10       hard.

11          A       Okay.

12          Q       What was the current location?  
13       What was 1624?

14          A       I don't know what -- 1622 is  
15       the store where I was.

16          Q       Which was?

17          A       Enterprise.

18          Q       Okay. You think they made a  
19       mistake there?

20          A       Probably.

21          Q       And 1653, what was that?

22          A       That was the Ozark branch.

23          Q       Okay. And you got a big raise

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1 here between 8.63 and 11.06. Do you see  
2 that?

3 A Show me where you're reading  
4 from.

5 Q Where it says salary change?

6 A Right. Okay.

7 Q Okay. But it says that it's a  
8 transfer adjustment. Do you know what  
9 that was?

10 A That when I got promoted to  
11 manager.

12 Q That's what I assume. I  
13 couldn't tell because everything is  
14 blocked out. So your promotion would  
15 have been effective on November the 25th,  
16 2002?

17 A Correct.

18 Q When you got to be a manager  
19 did you receive any training?

20 A No.

21 Q Okay. Did you have access to  
22 manuals?

23 A Yes.

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1 Q What kind of manuals did you  
2 have access to?

3 A Operations manual.

4 Q All right. Did you have  
5 access to the first guide?

6 A Yes.

7 Q And did you have access to the  
8 employee handbook?

9 A Yes.

10 Q Did you refer to all four of  
11 those documents, go through those  
12 documents?

13 A As best as I could, yes.

14 Q They were there for you to  
15 look at at any time?

16 A Right.

17 (Defendant's Exhibit

18 No. 7 was marked  
19 for identification.)

20 Q Okay. I'm handing you  
21 Exhibit No. 7 and ask you if you  
22 recognize that to be your  
23 performance review that was done on or on

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1 or about -- it looks like June 1, 2003?

2 A It appears to be, yes.

3 Q Okay. And this is the first  
4 performance review that you would have  
5 gotten from Mr. Knowles, is that correct?

6 A Right.

7 Q And Mr. Knowles had approved  
8 the other performance reviews you had  
9 gotten but he did not do them directly?  
10 He was the next level, correct?

11 A Correct.

12 Q Who would have been your next  
13 level on this, do you know?

14 A At this time?

15 Q It looks like it was Jennifer  
16 Rodriguez?

17 A Yes.

18 Q Did you actually have a  
19 discussion with Mr. Knowles about this  
20 particular performance review?

21 A Yes. He came in. He come to  
22 my branch in Ozark and went over it.

23 Q Do you recall what your

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1 discussions were with him about this  
2 particular review?

3 A He just pretty much went over  
4 everything, explained what I got and why  
5 I got it and that was it.

6 Q Did you tell him that you  
7 disagreed with anything?

8 A I don't recall at this point.

9 Q Looking at INT 26 it appears  
10 that he had rated you two for initiative,  
11 the same as Mr. Finnegan had; is that  
12 correct?

13 A Yes, I see that.

14 Q Was there any discussion about  
15 that?

16 A He pretty much told me what  
17 he felt about it, why he gave me the two  
18 for my initiative.

19 Q What did he say?

20 A I don't particularly recall  
21 the conversation. I know that he went  
22 through every category. He explained why  
23 I received what I received.

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1 Q Was it done in a calm,  
2 professional manner?

3 A Yes.

4 Q You're a professional? He was  
5 a professional?

6 A It was done in a calm manner,  
7 yes.

8 Q And under communication skills  
9 he rated you as a two and needs  
10 improvement, correct?

11 A What page is that?

12 Q I'm sorry, that's INT 27.

13 A Yes.

14 Q Okay. Did he talk to you  
15 about that, why you needed improvement in  
16 that?

17 A He never -- nothing that  
18 stands out of my head. He never went  
19 into details. Just, that, you know, you  
20 got a three here, you got a two there,  
21 three here, any questions and sign it and  
22 pretty much we didn't really sit down for  
23 long and talk about the evaluation.

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1 Q And you did not make any  
2 employee comments in this particular  
3 evaluation you did?

4 A No.

5 Q And it says do you concur with  
6 the evaluation. Check one. And you  
7 marked yes, correct?

8 A From what he said it really  
9 didn't matter whether you marked it yes  
10 or no.

11 Q Well, I mean it is true that  
12 the last time you did put in comments,  
13 correct?

14 A Correct.

15 Q You did disagree with it in  
16 the previous evaluation?

17 A That's correct.

18 Q Okay. And it says employee's  
19 potential for advancement. It says, "Do  
20 not recommend advancement at this time."  
21 That would have been the lowest rating  
22 you could have gotten in that particular  
23 box, correct?

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1 A Correct.

2 Q But you didn't make any  
3 comments to Mr. Knowles about that?

4 A Not written comments. I  
5 questioned him about that. He said no  
6 one is getting promoted. He said he's  
7 not even getting marked for promotion.  
8 He told me besides there's nowhere else  
9 to go unless I want DDO and then he said  
10 he don't plan on leaving any time soon.  
11 If I want to throw my hat in the ring and  
12 try somewhere else and move then I can  
13 try for it.

14 Q Okay.

15 (Defendant's Exhibit  
16 No. 8 was marked  
17 for identification.)

18 Q Now, I'm just trying to get  
19 some dates tacked down here. This  
20 transfer form or status change form  
21 indicates you went from the old location  
22 1653, which was Ozark, am I right on  
23 that?

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1 A I don't know this is.

2 Q Do you know what the

3 June 14, 2004 date is? Does that

4 coincide with when you moved to

5 Enterprise?

6 A To my understanding I moved to  
7 Enterprise In October.

8 Q October of '04?

9 A Yes.

10 Q Got you. All right. Well, I  
11 will clear that up with somebody else  
12 then.

13 (Defendant's Exhibit

14 No. 9 was marked

15 for identification.)

16 Q Okay. You recall Exhibit  
17 No. 9? Do you remember receiving an  
18 employee counseling report which is dated  
19 August 3, 2004 and is now  
20 Exhibit 9?

21 A Okay.

22 Q Do you recall getting this  
23 counseling?

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1 A Yes.

2 Q Tell me what the circumstances  
3 were that caused this counseling to come  
4 about.

5 A Just what it stated, that my  
6 CSR was violating the Federal Law and the  
7 Federal Fair Debt Collection Practices.

8 Q Okay. What happened?

9 A According to what he wrote  
10 down she was giving third party contacts  
11 and leaving them also in violation in  
12 saying threatening remarks to a third  
13 party.

14 Q Now, did you participate in  
15 doing these things?

16 A Not to my knowledge. There  
17 were several conversations going on at  
18 one time. She would be on the phone and  
19 I would be on the phone collecting at the  
20 same time so --

21 Q And you're responsible for her  
22 collection practices?

23 A I am as a manager.

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1 Q How big was the store that  
2 you were working in size wise?

3 A I believe at that time I guess  
4 bigger than this room.

5 Q This room is about maybe  
6 thirteen feet square, fifteen, maybe  
7 fifteen feet square?

8 A I guess.

9 Q And how many phones were in  
10 there?

11 A Three phones. Three lines.

12 Q And you were in a position to  
13 hear what Shmeka was saying over the  
14 telephone when she talked?

15 A I guess as a manager.

16 Q I mean it's a fact you did  
17 know what she was doing, didn't you?

18 A I don't recall at this time  
19 so I would rather not answer that.

20 Q Where did this counseling take  
21 place?

22 A In the Ozark branch.

23 Q And who was present?

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1 A I don't think anyone was  
2 present.

3 Q Okay. And at the time you  
4 told your boss that you didn't have any  
5 recollection of events, correct?

6 A I guess in my statement I  
7 wrote that down, yes.

8 Q And this statement is under  
9 the employee comments, right?

10 A Yes, it is.

11 Q And you're telling him that  
12 you want to see evidence that it  
13 happened, correct?

14 A He stated that he had evidence  
15 of whatever, something had occurred and  
16 he said that he cannot produce evidence  
17 or if I don't admit to wrongdoing or  
18 something and I said I don't recall. I  
19 said in some instances where, you know,  
20 we talk on the phone at the same time. I  
21 don't listen to every phone conversation  
22 that she has and he refused to comment on  
23 it. He just stated that he had evidence

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1 of wrongdoing and that was it.

2 Q Was Shmeka given any kind of  
3 discipline because of this?

4 A I was told by John Knowles  
5 that he would handle it. We both were  
6 written up.

7 Q Now, look at INT 22. Okay.

8 It says Customer Service Inquiry, which  
9 was attached to the counseling, and let  
10 me ask you the counseling -- the  
11 handwriting on INT 20 and 21 that's your  
12 handwriting, correct, at the bottom,  
13 except for Mr. Knowles' signature?

14 A Employee comments?

15 Q Yes.

16 A Yes.

17 Q And on 21 that's your  
18 handwriting, correct?

19 A Yes.

20 Q Okay. Now, on 22, have you  
21 seen 22 before?

22 A No, I have  
23 not.

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1 Q Do you know who Angela Craig

2 is?

3 A She was a customer in Ozark.

4 Q Okay. And what is CSS?

5 It says, "The customer listed below

6 contacted CSS for assistance."

7 A Where are you reading from?

8 Q Look on 22 right there, the

9 first paragraph.

10 A Okay. That would be

11 corporate.

12 Q Okay. Is there a hot line

13 number that people can call, customers

14 can call to complain about the way

15 they're being treated by local

16 management?

17 A Yes.

18 Q And the CSS, would that be

19 that group?

20 A I believe so.

21 Q Okay. And written down is a

22 description of the inquiry. "Requesting

23 payment arrangements. Very rude

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1 employees."

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2 Now, who were the  
3 employees at your division at that time  
4 or at your store center? I'm sorry.

5 A Myself and Shmeka.

6 Q There would not have been more  
7 than just the two of you, correct?

8 A Correct. Not at that time.

9 MR. GRAY: Let's take a break.

10 (A break was taken.)

11 MR. GRAY: Let's go back on the  
12 record.

13 Q Earlier you testified that  
14 you had not had any contact -- my  
15 understanding of your testimony is that  
16 you did not have any contact with  
17 Ms. Stewart before she became RDO; is  
18 that correct?

19 A I didn't talk to her. I never  
20 have spoken to her, only during business  
21 meetings. The branch manager meetings,  
22 she would be there. Her and John would  
23 conduct meetings together.

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1 would be a problem.

2 Q You had problems with Shmeka,  
3 too, didn't you?

4 A I had incidents with Shmeka  
5 where I discussed with her --

6 Q You were constantly having to  
7 call the DDO about your problems with the  
8 subordinates, correct?

9 A Before I made a  
10 decision -- no, I wouldn't even say that.  
11 To cover myself I would discuss  
12 situations with my DDO if that's what I  
13 felt like he was there for.

14 Q Okay.

15 (Defendant's Exhibit  
16 No. 10 was marked  
17 for identification.)

18 Q I'm going to show you Exhibit  
19 No. 10 and ask if you recognize it?

20 A Yes.

21 Q Okay. And what is Exhibit  
22 No. 10?

23 A This appears to be an audit.

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1 Q Okay. Do you recall when this  
2 audit was done?

3 A I believe it was not in the  
4 location at the time this audit was done  
5 but --

6 Q Go ahead.

7 A I'm sorry.

8 Q Wherever you are.

9 A I believe is this the -- I'm  
10 not sure as far as the date. I could  
11 tell you my first audit that I received  
12 in the Enterprise location return as to  
13 manager I was out on that day. I was not  
14 in and he come to the store,  
15 Mr. Knowles, and Deborah Mercer being the  
16 area manager. They conducted this audit  
17 and I was later given this to sign.

18 Q Okay. And did you read the  
19 audit at the time?

20 A I didn't really read over in  
21 detail. I remember asking him  
22 he's -- what does some of the things  
23 mean, you know, as far as does this mean

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1       that I'm doing my job. What does it mean  
2       to me. He stated that this is just to  
3       get a basic evaluation of things. He  
4       know that -- let me see the date of this.  
5       Okay. This would be my second audit.  
6       I'm not sure.

7           Q        I believe this is the second  
8       audit.

9           A        Okay. At the time I was  
10      present during the second audit then.

11          Q        Okay. And tell me about the  
12      second audit, how was it conducted?

13          A        It was pretty much as normal.  
14      He come in and did the audit and sat down  
15      with me afterwards. I asked him -- I  
16      said this audit doesn't look too well.  
17      What does this mean. I asked Mr. Knowles  
18      several times if he can get me some help  
19      with the collections because at that  
20      point in time they stated that they had a  
21      floater going around helping the  
22      different branches with collections and I  
23      asked him did -- I told him that I needed

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1 help with the collections and he stated  
2 that, you know, eventually he will work  
3 on that and get the collections done so I  
4 asked him what does this mean. He stated  
5 I don't have to worry about anything. I  
6 said does it mean I don't have a job  
7 because the audit is not looking  
8 too -- it's not looking good and he  
9 stated to me that no I don't have  
10 anything to worry about.

11 Q Who said that?

12 A John Knowles.

13 Q Okay. And at that point you  
14 didn't have anything to worry about but  
15 this is a bad audit, correct?

16 A I assume it's not  
17 where -- in the area of marketing, yes,  
18 he did give me a low score.

19 Q And basically the overall  
20 score is not that good, correct?

21 A It's not that bad overall but  
22 in that one area.

23 Q Let's look at Page INT25. It

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1 says in the comments section,  
2 "Daily/weekly tracking sheets in  
3 complete. Two, team members marketing  
4 program sheets not available. Three, no  
5 evidence of street marketing. Tear sheet  
6 route, flyer routes exist. Cannot find  
7 proof of any marketing activity. When  
8 asked Manager Diane Murphy produced a one  
9 page sheet of paper with one set of  
10 apartments where door hangers were placed  
11 with a date of 12-13-04 as the date of  
12 the marketing activity. No other proof  
13 was presented. She said she had other  
14 sheets with information on them but did  
15 not know what happened to them. And the  
16 conclusion. The required marketing  
17 program activity is not being worked  
18 therefore it is infective. This is a  
19 repeat finding from the previous DDO  
20 audit."

21 You had been counseled  
22 before on your failure to do marketing  
23 activity, correct?

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1           A       The first counseling where I  
2        actually was audited like this was stated  
3        that there was no sign of a marketing  
4        plan. And he stated to me and I stated  
5        to him there's no way that I could have  
6        come in and gotten up a marketing plan at  
7        that point in time.

8                      He stated that he  
9        realized there were certain things  
10       Ed Finnegan did not do because there was  
11       no marketing plan within the store at  
12       all. It would be the first audit.

13          Q        The first audit, if you look  
14        at the first page of this document, would  
15       have been the audit on September the  
16       21st, 2004?

17          A        I guess so.

18          Q        Okay. And you had not fixed  
19        it by December the 16th, 2004, correct?

20          A        In his opinion.

21          Q        Okay. And there was an  
22        intermediate audit, correct, on  
23        November the 2nd 2004?

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1 A Where do you see that at?

2 Q Where it says previous two DDO  
3 audits?

4 A I'm not seeing it.

5 Q Right here, the first page  
6 about three quarters of the way down.

7 Previous two DDO audits. Actually there  
8 were three audits, correct?

9 A I assume. I don't recall.

10 Q You had three months to get a  
11 marketing plan in effect and you hadn't  
12 done it?

13 A That's what he said. I had a  
14 marketing plan. I asked John Knowles  
15 several times to send me some help  
16 because I could not do everything that  
17 was called to do during the course of the  
18 day with one less person. I didn't have  
19 half the help that Edward Finnegan had  
20 and I told him I needed help. He stated  
21 to me don't worry about it. We will  
22 eventually get you somebody in because  
23 we've got this one, his name was Todd.

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1 He was a floater and he was going around  
2 helping out in the branches because there  
3 was a high rate of bad debt at that time.

4 Q It appears from this that your  
5 boss couldn't find any evidence of  
6 marketing, if you will look at INT125,  
7 and you only produced a small amount of  
8 documents relating to a  
9 December 13, 2004 attempted marketing,  
10 correct?

11 A That's what he is stating.

12 Q Did you give him any other  
13 documents?

14 A I gave him an additional page  
15 to what I had in the marketing book.

16 Q And when did you do that?

17 A That day when he  
18 requested -- he asked for my marketing.  
19 I said well I don't have anything  
20 organized. This is what I have. I said  
21 there's an additional page. That's when  
22 I gave him that page.

23 Q Right. Now, he found that

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1 unacceptable that you had not done your  
2 marketing plan, correct, in his mind?

3 A Right. He had something That  
4 I did not do my marketing plan.

5 Q Had you done a marketing plan?

6 A Yes, I had to the best of my  
7 knowledge and my ability with the help  
8 that I had.

9 Q There was a problem with a  
10 toilet in the Enterprise location when  
11 you came, right?

12 A Correct.

13 Q What was the problem there?

14 A The water was running.

15 Q It was broken?

16 A It was broken.

17 Q And on one of the performance  
18 evaluations that was pointed out to you,  
19 correct, that you needed to get it fixed?

20 A Yes.

21 Q Did you get it fixed?

22 A I did.

23 Q Tell me how did you get it

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1 fixed.

2 A I called a plumber and he came  
3 to fix it.

4 Q And why hadn't you done it  
5 before your manager told you to do it?

6 A John Knowles come in. I had  
7 just got assigned to that store. Certain  
8 things like cleaning the microwave, doing  
9 this little petty stuff which I did get  
10 done in a timely manner.

11 Q Okay. But he came in and he  
12 found the store to be dirty?

13 A That's what he stated.

14 Q And whose responsibility was  
15 it to keep the store clean?

16 A Everyone.

17 Q And as the manager you were to  
18 lead the effort to keep it clean?

19 A Correct.

20 Q I mean you were the one,  
21 right?

22 A Correct.

23 Q And who else would have been

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1 responsible under you?

2 A Everybody that's responsible  
3 to pitch in and help as a team.

4 Q Let me ask you who at that  
5 time under you would have been  
6 responsible for --

7 A Lisa was there with me at the  
8 time.

9 Q And tell me about how long had  
10 the commode had been broken before  
11 Mr. Knowles came in and saw that it was  
12 leaking on the floor?

13 A It was not leaking on the  
14 floor. It was a constant running noise.  
15 It was not leaking on the floor. To my  
16 knowledge I got it taken care of in a  
17 timely manner. I don't quite remember  
18 the dates.

19 Q Okay. Did you have a cleaning  
20 service that came in and cleaned the  
21 place?

22 A No.

23 Q Was that standard with all the

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1 stores that you didn't have cleaning  
2 services?

3 A Right.

4 Q It was always the  
5 responsibilities of the employees to  
6 clean the unit?

7 A Right.

8 Q Okay. Who used the toilet  
9 facility in that store?

10 A Employees.

11 Q And how many toilet facilities  
12 were there?

13 A There was one.

14 Q And it was then the employees  
15 that used it and the employees that  
16 cleaned it, correct?

17 A Correct.

18 Q And that was true of all of  
19 the stores, correct?

20 A Correct.

21 Q Was there ever a discussion  
22 that you had with anybody about cleaning  
23 the toilets?

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1           A       Not to my recollection.  We  
2       discussed with John Knowles who brought  
3       that to my attention.  He stated to me I  
4       know this is Ed's mess because he didn't  
5       clean it.  It should have been done  
6       before you got here but I want you to do  
7       it.  He referred to the stuff in the  
8       microwave or whatever but I don't quite  
9       remember a reference to the toilet.

10          Q       There's no reference to the  
11       toilet made by Knowles?

12          A       Well, yeah, of course, to get  
13       it fixed.

14          Q       That was all just to get it  
15       fixed?

16          A       And for somebody to clean it.  
17       He said come up with a schedule, cleaning  
18       schedule or whatever but it needed to be  
19       taken care of.  He said he realized it  
20       should have been taken care of when  
21       Edward Finnegan or whoever else was there  
22       but it needed to be taken care of at that  
23       point.

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1 Q Okay.

2 A Now that I'm there he told me  
3 to take care of it.

4 Q You guys came up with a  
5 cleaning schedule?

6 A Yeah. It was -- like I said,  
7 it wasn't like a straight schedule. If  
8 the bathrooms needed to be cleaned we  
9 were -- to my understanding we were going  
10 to do it once a week or as needed.

11 Q By "we" who are you talking  
12 about?

13 A Myself and Lisa. Whoever the  
14 CSR was at the time.

15 Q Did Lisa ever do any of the  
16 cleaning?

17 A She did.

18 Q Did you ever do any of the  
19 cleaning?

20 A I did.

21 Q Was it pretty much split  
22 evenly who did the cleaning or did she do  
23 more or you do less of it?

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1 A It was pretty much split  
2 evenly. It was a lot of stuff. There  
3 was a mess back there that I walked in  
4 and it took a lot of time. I came in on  
5 my time off and cleaned.

6 Q Lisa was a white female?

7 A Yes, she was.

8 Q But that's all you remember  
9 about Knowles telling you about cleaning  
10 the place up?

11 A At this time that's all I  
12 recall.

13 Q You might remember something  
14 later?

15 A No.

16 Q What would refresh your memory  
17 on something like that?

18 A I'm not sure.

19 Q When Knowles told you this it  
20 was done in a calm, professional manner?

21 A Yeah, I would say. More like  
22 a casual manner just in conversation.

23 Q And you didn't take exception

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1 to it because you knew that, in fact,  
2 that was the responsibility of the people  
3 at the store to clean that?

4 A Restate that again.

5 Q You didn't find anything wrong  
6 with that or unusual about it because you  
7 knew that it was the manager and the  
8 assistant managers and the CSR's  
9 responsibility to maintain the store?

10 A Right. I felt like it should  
11 have been maintained or cleaned before I  
12 got there.

13 Q I have some real quick  
14 documents to run through.

15 Is this your signature on the  
16 acknowledgement and proof of acceptance  
17 of the employee handbook?

18 A Yes, this is my signature.

19 (Defendant's Exhibit

20 No. 11 was marked  
21 for identification.)

22 Q And, in fact, you had access  
23 to the employee handbook both as an

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1 assistant manager and a manager, is that  
2 correct?

3 A Yes.

4 (Defendant's Exhibit

5 No. 12 was marked  
6 for identification.)

7 Q And can we agree that  
8 Exhibit No. 12 is the policy on denial of  
9 loans that was in effect at the time that  
10 you worked for Advance America?

11 A Yes.

12 Q And you had access and  
13 training on that policy?

14 A Yes.

15 (Defendant's Exhibit  
16 No. 13 was marked  
17 for identification.)

18 Q And Exhibit No. 13 is the  
19 policy on prohibited collection  
20 practices, correct?

21 A Correct.

22 Q And you had training and  
23 access on those practices prior to the

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1 time or while you were at Advance  
2 America?

3 A Yes.

4 Q How early did you get training  
5 on these policies?

6 A I'm not sure.

7 Q Right after you were employed?

8 A I assume.

9 (Defendant's Exhibit

10 No. 14 is marked  
11 for identification.)

12 Q And Exhibit No. 14 is your  
13 Acknowledgement and Proof of Acceptance  
14 of the Anti-harassment Policy, correct?

15 A Yes.

16 Q That's your signature there,  
17 correct?

18 A Yes, sir.

19 Q You always had access to the  
20 anti-harassment policy and reporting  
21 procedures that accompanied the policy,  
22 correct?

23 A Correct.

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1 Q And you understood at the time  
2 that you had a direct opportunity to  
3 report any harassment or discrimination  
4 directly to the corporate office?

5 A Okay.

6 Q Is that correct?

7 A Correct.

8 Q And you never personally ever  
9 contacted anybody at the corporate office  
10 about any of your complaints of  
11 discrimination?

12 A Not before it -- the person,  
13 HR in Human Resources called me  
14 concerning that complaint.

15 Q That was back right before you  
16 got promoted?

17 A Right.

18 Q What was your title when you  
19 left the company?

20 A Branch manager.

21 (Defendant's Exhibit  
22 No. 15 was marked  
23 for identification.)

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1 Fifie since then?

2 A Only in passing.

3 Q Have you talked about the case  
4 again?

5 A No, no. I mean she said all  
6 she needed to say.

7 Q Did you know Fifie before she  
8 was a customer at Advance America?

9 A No.

10 Q Do you have any social  
11 relationships with her now?

12 A No.

13 Q Not belong to the same club or  
14 anything like that?

15 A No.

16 Q All right. Have you talked to  
17 anybody else about this case? First,  
18 anybody that works or has worked at  
19 Advance America and, of course, not your  
20 attorney?

21 A No.

22 Q Then if you will look you've  
23 attached some documents. The first

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1 document is the termination report. Can  
2 you tell me when you got this termination  
3 report or the first time you saw it?

4 A Well, it's dated December  
5 29th. That would be the day.

6 Q Okay. And you recall how you  
7 received it?

8 A Yes. John Knowles came to the  
9 branch, the Enterprise branch, and he  
10 waited there for awhile in the parking  
11 lot until Brenda Stewart pulled up and  
12 they both came in and waited for awhile  
13 and then I guess they waited till my  
14 CSR returned back to the location and  
15 they called me to the back of the branch  
16 and he gave me the paperwork, the  
17 termination papers.

18 Q It was in the branch that it  
19 occurred?

20 A Yes.

21 Q Okay. And were you standing  
22 or sitting?

23 A I sat. We were sitting at a

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1 table.

2 Q Were they all sitting, too?

3 A Yes.

4 Q And just the three of you?

5 A Yes.

6 Q All right. And what did they  
7 say to you and what did you say to them?

8 A Not much. He gave me the  
9 paperwork and I read over it and I wrote  
10 my comments.

11 Q Okay. Did he say anything?

12 A If he did not very much.

13 Q Okay.

14 A Not much at all.

15 Q And did Ms. Stewart say  
16 anything?

17 A No.

18 Q Okay.

19 A Not that I recall.

20 Q All right. And then what  
21 occurred?

22 A I pretty much turned in my  
23 keys at that time. He paid me my

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1 mileage, whatever was outstanding. I got  
2 all my belongings in their presence and I  
3 left.

4 Q Okay. How long did this whole  
5 incident or this whole meeting take  
6 place? How long did it take place?

7 A At what point? When he first  
8 gave me the paperwork or when he first  
9 got there. It took awhile. He sat in  
10 the parking lot for fifteen minutes.

11 Q Where were you when he was  
12 sitting in the parking lot?

13 A I was in the branch.

14 Q Working?

15 A Yes. I was on the phone doing  
16 collections and it was close to closing  
17 time. It was probably thirty minutes or  
18 close to closing time and it was dark  
19 outside but I noticed his car pull around  
20 and he waited in the parking lot till  
21 Brenda Stewart come up and then they both  
22 walked in the branch and they sat there  
23 and talked about, you know, off the wall

1       stuff. Stuff that is not even pertaining  
2       on -- we need to do this. I need to do  
3       that. You know, nothing pertaining to  
4       why they was there. I sat there in limbo  
5       not knowing what's going on. I knew it  
6       was not a pleasant occasion if the DDO  
7       and RDO shows up close to quitting time.  
8       So I asked him what is this meeting in  
9       regards to and they told me just wait and  
10      they told me to get my CSR back to the  
11      location and that's when I called my CSR  
12      on her cell phone and asked her return  
13      back to the location.

14           Q        Okay. And did you have an  
15      understanding of who had made the  
16      decision to terminate you?

17           A        No. I mean I don't even  
18      recall that I was told. I read -- I was  
19      handed this. I read everything. John  
20      Knowles signed it and then Brenda Stewart  
21      signed off on it. Then I guess I assume  
22      John Knowles made the decision and  
23      Brenda Stewart re-enforced that decision.

1 Q Brenda Stewart agreed with it?

2 A Agreed with it, that's right.

3 Q During this meeting did

4 Ms. Stewart say anything to you?

5 A Like I said she -- there was  
6 very little said. I mean not much not to  
7 my recollection. I don't recall her  
8 saying anything to me. She was on the  
9 phone a lot prior to us going through the  
10 signing of the documentation. She was on  
11 the phone a lot and she and John spoke  
12 about something not even pertaining to  
13 what was going on at that time and I  
14 believe she got on her laptop, I'm not  
15 sure, and they talked about the laptop.  
16 It was a lot of conversations going on  
17 while we were waiting for the CSR to  
18 return.

19 Q After they gave you the  
20 report, termination report, you don't  
21 recall Ms. Stewart saying anything to you  
22 about the termination?

23 A I don't. If she did I don't

1 remember.

2 Q Did you say anything to her  
3 about the termination report?

4 A I don't recall saying anything  
5 to her.

6 Q Did you say anything to  
7 Knowles about the termination report  
8 or the facts?

9 A No.

10 Q Did you say anything to  
11 Ms. Stewart about the facts of the  
12 termination surrounding the termination?

13 A I don't recall. I don't  
14 recall. At that point the decision was  
15 made without even addressing me or asking  
16 me, you know, to tell my side of the  
17 story. When I read the explanation why I  
18 was just overwhelmed that a decision was  
19 made without even, you know, hearing my  
20 side.

21 Q Later did you, after you got  
22 the termination report, how did the  
23 meeting end first off? How did the

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1 meeting end?

2 A I signed it. And after I  
3 signed it, returned it to John Knowles,  
4 he signed it and Brenda Stewart signed it  
5 and John Knowles got up. I got up, gave  
6 him my keys and I got my things together.

7 Q And left?

8 A And left.

9 Q And after that you applied for  
10 unemployment?

11 A I did.

12 Q Okay. And you got it?

13 A Yes.

14 Q Did the company contest your  
15 unemployment?

16 A No.

17 Q Okay.

18 A To my understanding they did  
19 not.

20 Q So you just got it  
21 automatically? I mean you went in and  
22 applied for it and you got it?

23 A Right.

1 Q After the termination report  
2 and after you left what was the next  
3 contact you had with Advance America?

4 A I was called by Heather,  
5 which was the CSR at the time, that my  
6 last paycheck was there in the branch and  
7 that I needed to come and pick it up and  
8 we scheduled a time. She told me when  
9 she was going to lunch. And I came in  
10 after her lunch and picked up my last  
11 paycheck.

12 Q Okay. And then did you have  
13 any other contacts after that with  
14 Advance America?

15 A No.

16 Q Did you go to the EEOC over  
17 this?

18 A That's when I hired legal  
19 representation.

20 Q And you filed a charge?  
21 You filed a charge with the EEOC?

22 A I assume.

23 Q You don't know?

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1 A Yes, we did. My lawyers  
2 representing me and I like I said we did  
3 file a charge on the EEOC.

4 Q Have you ever talked to  
5 anybody at the Equal Employment  
6 Opportunity Commission?

7 A No, I haven't.

8 Q Do you recall ever having  
9 signed a sworn charge with the Equal  
10 Opportunity Employment Commission?

11 A No.

12 Q Did you ever file a grievance  
13 with the company under its open door  
14 policy?

15 A With this company?

16 Q Yes.

17 A No.

18 Q Did you ever contact the  
19 people at HR and complain about the  
20 situation that you were treated unfairly?

21 A Other than the time that she  
22 called me, no.

23 Q But not about this incident?

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1 A No, not about this incident.

2 Q Could you read what your  
3 employee comments were?

4 A "I do not agree and do not  
5 think this decision was made fairly."

6 Q Is that all you told them at  
7 the time of your termination?

8 A Yes. That's the only thing I  
9 wrote that I recall. Like I said that  
10 was very depressing and distraught to me  
11 at that point to be terminated like that.

12 Q You didn't tell them what you  
13 didn't agree to?

14 A No, not at that point.

15 Q Let me ask you all of the  
16 things that they put up there one, two  
17 and three were, in fact, all violations,  
18 to your knowledge, of the Fair Debt  
19 Collection Practices Act, correct?

20 A I see number one would be the  
21 violation under fair debt.

22 Q Okay. Yeah, you're right.  
23 Number two would not be. And number

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1 three would be noncompliance of the  
2 company collection policy and would have  
3 been in noncompliance had the facts been  
4 as they assumed, correct?

5 A Right.

6 Q And, in fact, these are  
7 similar violations to what you had  
8 received the warning about back in August  
9 of 2004, correct?

10 A Correct.

11 Q I'm sorry?

12 A Correct.

13 Q And you didn't tell  
14 Mr. Knowles or Ms. Stewart at the time  
15 why you did not think the decision was  
16 made fairly, correct? You just said I  
17 don't think the decision is being made  
18 fairly?

19 A That's correct.

20 Q You didn't tell Ms. Stewart  
21 wait just a second this is because of my  
22 race this is happening?

23 A No, because evidently she had

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1 made up her decision or made up her mind  
2 towards whatever decision John Knowles  
3 had decided on --

4 Q And you --

5 A -- at that point in time. So  
6 I didn't feel like it was -- it would do  
7 any good to voice my opinion.

8 Q You didn't think it would do  
9 any good but you also didn't do it,  
10 correct?

11 A Correct.

12 Q In the past you had raised  
13 issues about the way you were treated,  
14 correct?

15 A Correct.

16 Q You have been vocal about the  
17 fact you hadn't gotten promoted, correct?

18 A I'm sorry

19 Q You had expressed opinions to  
20 people about the reasons of you not being  
21 promoted, correct?

22 A Correct.

23 Q You never have been afraid to

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1 Q Look at the top of the third  
2 page of the Complaint. It's number -- I  
3 guess it's a continuation.

4 A Well, like the toilet incident  
5 Edward Finnegan bragged to me, oh yeah,  
6 John mentioned that toilet all the time.  
7 I never got it fixed. I had been  
8 planning on getting that thing fixed for  
9 about a year.

10 Q I don't think that's what the  
11 complaint says though?

12 A That's what it means.

13 Q "Plaintiff was made to clean  
14 toilets." And we just discussed that at  
15 length, didn't we, and you weren't made  
16 to clean toilets were you?

17 A I knew it was my job -- that  
18 was referring to -- I guess that was  
19 referring to the toilet incident where I  
20 was made to -- I come into the store that  
21 was already dirty and I was made to clean  
22 up when someone else was there for two  
23 years and I was told that the microwave

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1 had something growing in it and the  
2 refrigerator had something in it and I  
3 was told it's been there for months.

4 Q Isn't this the conversation we  
5 had earlier where you were told it needed  
6 to be cleaned up, and we agreed it was  
7 the manager's responsibility and that you  
8 and a white female were actually the ones  
9 who cleaned the store up? Isn't that  
10 accurate?

11 A That's what you referred to  
12 earlier.

13 Q What do you mean? Is there  
14 anything different about your statement  
15 in here that we need to know that you  
16 were made to clean toilets?

17 A I just explained to you the  
18 conditions that I came into.

19 Edward Finnegan was not written up for it  
20 because those conditions, which John  
21 Knowles witnessed on several occasions in  
22 that branch was not written up for, was  
23 not made it clean but that the incident

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1 where I became the branch manager it  
2 became an issue where my job was on the  
3 line where I had to clean the  
4 toilet or fix the toilet from running or  
5 clean the microwave or the refrigerator  
6 where something was growing in and it's  
7 been there for awhile.

8 Q Now, you weren't told when  
9 Mr. Knowles first came in and saw the  
10 store in that kind of condition that you  
11 were going to be fired if you didn't  
12 clean up the toilet and the rest of the  
13 facility were you?

14 A It was written up and you see  
15 it, the evaluation, it was one of those  
16 mandatory things where I needed to get  
17 done.

18 Q Right. But you weren't  
19 threatened?

20 A It became an issue. It  
21 was part -- it was part of the  
22 termination, wasn't it?

23 Q I don't think it was but be

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1       that as it may it was understood by  
2       Mr. Knowles you had not created those  
3       conditions, correct?

4           A       That's correct.

5           Q       But you were the manager that  
6       was taking over the center and you were  
7       expected to fix the problem, correct?

8           A       Correct.

9           Q       And that was the same? Every  
10      manager is expected to keep their store  
11      clean, correct?

12          A       Evidently. Not if the store  
13      was in that condition when I came into  
14      it.

15          Q       What about Ms. French?

16          A       What about it?

17          Q       Wasn't she required to keep  
18      the store clean?

19          A       Yeah. The basic  
20      operational -- every branch is  
21      responsible for cleaning their own  
22      branch.

23          Q       And Ms. French made sure her

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1 branch remained clean, correct?

2 A To a certain degree yes.

3 Q And in this case you could.

4 have told Lisa, your subordinate, to  
5 clean the toilet, correct?

6 A Correct.

7 Q And, in fact, Lisa probably  
8 did clean the toilet sometimes, correct?

9 A Probably.

10 Q And this business about  
11 plaintiff was given less employee support  
12 than Caucasian managers. In that case  
13 you're referring to Ed Finnegan, the  
14 training manager, correct?

15 A Correct.

16 Q Anybody else?

17 A Well, like I said, if other  
18 branches -- during that time we had a  
19 higher percentage of bad debt so I was  
20 told that there was a person by the name  
21 of Todd hired into the company to go  
22 around -- he was going to act as a  
23 floater. He would go around to different

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1 locations and he would stay in that store  
2 and he will help out with the collections  
3 for a week or month or so and I asked  
4 Mr. Knowles on several different  
5 occasions that, you know, we have a lot  
6 of bad debt here. I really need some  
7 help. I really need some help because it  
8 was a problem. And I saw the problem  
9 areas and I tried to rectify the problem.  
10 He told me, okay, I will get you some  
11 help. He never did.

12 Q In the two months you were at  
13 that Enterprise store you never got any  
14 help?

15 A Other than my CSR that was  
16 there.

17 Q The floater didn't come around  
18 in those two months you were there?

19 A No.

20 Q Who was it that made more  
21 money than you did, the Caucasian  
22 employees who received more money with  
23 less experience?

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1           A       I was told by -- we weren't  
2        allowed to talk about salary. I was told  
3        by one branch manager what her salary  
4        was.

5           Q       Who was the branch manager  
6        and how much was it?

7           A       Her name was Cookie. I don't  
8        know her real name. She was the branch  
9        manager at Andalusia and she stated that  
10      she know the salary of other managers and  
11      that the salary that I was receiving is  
12      nowhere comparable to the other managers.

13          Q       Did she say what the other  
14      managers were making?

15          A       I don't recall if she did.

16          Q       Have you seen Cookie since  
17      then?

18          A       Since that statement to me?

19          Q       Yes.

20          A       I've never -- we talk on the  
21      phone. She was the branch manager.  
22      She's no longer with the company but at  
23      that time when we spoke that was when I

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1 first got transferred or promoted to  
2 branch manager in Ozark and that's during  
3 the time she was telling me that.

4 Q And that was, what, about a  
5 year or two years before -- was it a year  
6 before your termination, two years before  
7 your termination?

8 A A year or so. A year.

9 Q And after you heard this did  
10 you make any inquiry with anybody like  
11 corporate or human relations or anybody  
12 of that nature?

13 A Payroll.

14 Q Payroll? What did they?

15 A She told me she was not  
16 allowed to discuss. I would have to talk  
17 to John Knowles.

18 Q Did you talk to John Knowles  
19 about it?

20 A Yes.

21 Q What did he tell you?

22 A He stated that if he give me  
23 anymore money I will being making more

1 than he's making. I can't make no more  
2 than he make because -- he made light of  
3 the situation and laughed it off.

4 Q So you, sitting here today,  
5 you can't really tell me who you're  
6 comparing yourself to?

7 A All the branch managers.

8 Q All the branch managers?

9 A At that time.

10 Q Made more than you did?

11 A That's what I was told.

12 Q With less experience?

13 A As far as with Advance  
14 America. I had been with the company  
15 longer.

16 Q Okay. As a new branch manager  
17 the first day you've got to be the least  
18 experienced branch manager, though,  
19 correct?

20 A Right, right.

21 Q Okay. Who was paid overtime  
22 while you were not?

23 A I worked many a times off the

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1 stuff like that.

2 Q That's what his response was?

3 A Right.

4 Q You don't remember that  
5 customer who told you that?

6 A I have a name written down at  
7 home.

8 Q Anything else like that you've  
9 heard or is that pretty much just the --

10 A That's pretty much the gist of  
11 it but so many customers have come and  
12 told me different things like that.

13 Q Is it true that in  
14 November of 2001 you were offered the  
15 position at 1655 and turned it down?

16 A Which location is that?

17 Q 1655, Andalusia.

18 A That's impossible. I  
19 cannot -- like I explained to John  
20 Knowles he stated that there was a  
21 location opened up in Andalusia. My  
22 mother is a heart patient. Her doctor is  
23 in Dothan. And it wouldn't be feasible